

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Wilfredo BATISTA and ANNA SANCHEZ,

Plaintiffs,

-v-

THE CITY OF NEW YORK, STATE OF
FLORIDA: DEPARTMENT OF CORRECTIONS;
STATE OF FLORIDA: TAMPA EAST DIVISION
AND PAROLE,

Defendants.

ELECTRONICALLY FILED
FILED: 7/20/07

Case No. 05-CV-8444 (KMK)

ORDER

KENNETH M. KARAS, District Judge:

In an Order dated June 15, 2007, this Court set oral argument on all outstanding motions in this case for July 19, 2007, at 2:15pm. The Order was docketed on ECF on June 20, 2007. On the day of oral argument, counsel for the City of New York and counsel for the State of Florida, appeared before the Court, but Plaintiff's counsel - Joy Bunch, Esq. - was absent. The Court's deputy attempted to contact Ms. Bunch by calling her office and sending her an e-mail inquiring as to her whereabouts, but was unsuccessful in contacting her. After some delay, Ms. Bunch contacted the Court by telephone and explained that she had not received an email notification from ECF that oral argument had been scheduled for July 19th.

Even though Ms. Bunch says she did not receive an email notification from ECF that an Order had been entered nearly one month prior to the argument date, counsel for the City of New York and Florida confirmed that they received email notifications of the Order from ECF. The Court confirmed with Ms. Bunch that her email address was properly entered on the docket sheet. Furthermore, the Court reminded Ms. Bunch that "[i]t remains the duty of the attorney for

a party to review regularly the docket sheet of the case," (S.D.N.Y. ECF Procedure #9), so even if Ms. Bunch's email had failed to relay the entry of the Order, she should have been reviewing the docket regularly.

The Court gave Ms. Bunch two options: she could proceed with the argument and participate by telephone or the argument could be rescheduled, but if she chose to reschedule the argument, the Court would consider imposing costs on Ms. Bunch for her failure to appear at the scheduled oral argument date. The Court noted that this would include the costs of opposing counsels' time and travel, which in the case of the State of Florida's counsel, includes, at least, the cost of airfare. Ms. Bunch chose to reschedule the argument because she was on vacation, she was away from her files, and she was driving a vehicle at the time.

Therefore, the Court ORDERS Plaintiffs' counsel to show cause as to why she should not be ordered to pay the expense of opposing counsels' reasonable costs in attending the July 19th oral argument.

SO ORDERED.

Dated: July 19, 2007
New York, New York



KENNETH M. KARAS
UNITED STATES DISTRICT JUDGE